761551N25A - SH - AD - 32A (11/02)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

OFFICE CORRESPONDENCE

DATE: May 11, 2006

FILE NO.: SH2121392

FROM: JOHNNY G. JURADO, COMMANDER
ERIC B. SMITH, COMMANDER
KENNETH J. BRAZILE, COMMANDER

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**

DEPUTY [redacted]
DEPUTY KENNETH MORT #[redacted]
DEPUTY ANSELMO ANGULO #[redacted]
INDUSTRY STATION

On June 9, 2004, Industry Deputies Mort, [redacted] Angulo and [redacted] responded to Motel 6, 1154 Seventh Avenue #219, Hacienda Heights, in regards to a "shots fired" call. Upon arrival, they were told the suspect had brandished what witnesses believed was a pellet gun. Further, the witnesses reported the suspect then walked into his second floor room, closed the door and turned off the interior lights. The four deputies approached the door via the second floor walkway, intending to warn the suspect about his actions. Deputy Mort knocked on the door several times, receiving no reply. Suddenly, and without warning, the suspect opened the door, lunged toward the deputies while pointing a semiautomatic pistol looking weapon at them. The suspect fired the weapon approximately five times at the deputies who were standing in a staggered line on the walkway. The deputies, believing their lives were in danger, fired multiple rounds at the suspect. After being struck by the gunfire, the suspect collapsed to the floor.

The suspect sustained gunshot wounds to the chest, left arm, and the right hand. He was pronounced dead at the scene by paramedics. The suspect's weapon was recovered in the doorway of the motel room and was determined to be a pellet gun that was manufactured to resemble a semiautomatic pistol.

During the exchange of gunfire, Deputy [redacted] was critically wounded. He was subsequently airlifted to Harbor/UCLA Medical Center where he died on June 15, 2004.

On May 11, 2006, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MMP § 3-01/025.00: Use of Force; MMP § 3-01/025.30: Use of Firearms and Deadly Force; MMP § 3-01/025.10: Unreasonable Force; and MMP § 3-01/050.10: Performance to Standards. Concerning:

MMP § 3-01/025.00: Use of Force, MMP § 3-01/025.30: Use of Firearms and Deadly Force; and MMP § 3-01/025.10: Unreasonable Force, the Committee determined that the force used by the deputy was reasonable and necessary and in compliance with Department policy. MMP § 3-01/050.10: Performance to Standards, the Committee determined that the tactics employed by the deputies in this incident were within Department Policy.

Johnny G. Jurado, Commander

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date:	Bureau/Station/Facility:	Admin. Invest.? ☐	Hit? ☒
September 7, 2005	Industry Station		

Incident Information

URN: 004-09447-1477-013	Date: June 9, 2004 Time: 2200 hrs.
City or Station: Hacienda Heights	Nature of Incident: Deputies contacted suspect (armed with pellet gun) at his motel room and he began firing at deputies. Deputies returned fire, killing the suspect. In the course of the gun battle Deputy [redacted] was fatally wounded by a deputy.
Location: [redacted] Seventh Avenue	

Location Type (*circle one or more*):	Lighting (*circle only one*):	Incident Type (*circle one or more*):	Initiated by (*circle only one*):
Backyard	Darkness	Accidental	Arrest Warrant
Beach	Daylight	(Armed Person)	(Call)
Business	(Other)	Fleeing Suspect	Observation
Freeway	Street Lights	Foot Pursuit	One Person Unit
Industrial		Gun Take Away	Other
Park	**Weather** (*circle only one*):	Moving Vehicle	Search Warrant
Parking Lot	(Clear)	Sniper/Ambush	Two Person Unit
Residence	Cloudy	Startle	
Rural	Fog	Struggle Involved	Prior Activity (*circle only one*):
School	Rain	Traffic Stop	Detective
Street		Unarmed Person	Inmate Transport
Other: motel	Distance: 10 ft.	Unintentional	Other
		Vehicle Pursuit	(Routine Patrol)
Total # of Shots Fired by Deputy: 10	Total # of Shots Fired by Suspect: 3	Warrant Service	Aero Unit? ☒
		Warning Shot	Canine Unit? ☒
		Other:	

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*):	ShiftType (*circle only one*):
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	Antuna pg 101	Phyllis	L.	(EM) PM Day	(Regular) Overtime Off Duty
[redacted]	Moreno 156	Stephen	G.	EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name [redacted]		First Name [redacted]		M.I.	
Street Address [redacted]	City [redacted]	Zip Code	Work Ph	Home Ph [redacted]	
Last Name [redacted]		First Name [redacted]		M.I.	
Street Address [redacted]	City [redacted]	Zip Code	Work Ph	Home Ph	
Last Name [redacted]		First Name [redacted]		M.I. [redacted]	
Street Address [redacted]	City [redacted]	Zip Code [redacted]	Work Ph [redacted]	Home Ph [redacted]	

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*):	
[redacted]	Lindblom	Eric	R.	(On Duty) Present during shooting	Witness to shooting Involved in shooting
[redacted]	Enriquez	Raymond		(On Duty) Present during shooting	Witness to shooting Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Fowler	David	W.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Garcia	Allan	R.

PSTD Use Only
SH # 2121392

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
June 10, 2004	2340 hrs.		

Employee #	Last Name	First Name	M.I
[redacted]	Cleary	John	T.
[redacted]	Stunson	David	J.
[redacted]	Seno	Bennett	W.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

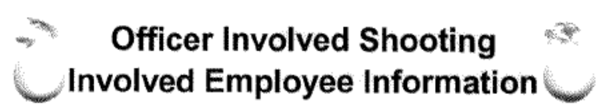
Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S1	E2	FH	ZZ	WW			BR	LE
E1	S1	FH	BR	9	Y	Y	GS	
E2	S1	FH	BR	9	Y	Y	GS	
E3	S1	FH	BR	9	Y	Y	GS	

See Front Side



Officer Involved Shooting
Involved Employee Information

URN: 004-09447-1477-013

Involved Employee

E 1

Employee # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Sex: M Race: H	Rank: deputy sheriff	Unit Assignment: Industry Station	Work Assignment (Unit #, Module, etc.): [redacted]
ShiftTime (*circle only one*): EM **PM** Day	ShiftType (*circle only one*): Regular **Overtime** Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, **Uniform w/ Vest**	Other Factors: Deputy Arruda succumbed to a gunshot wound he sustained to the back of his neck during the gun battle.
Age: [redacted]	Height: 5-07 Weight: 175		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp #	Last Name	First Name	M.I.

E 2

Employee # [redacted]	Last Name: Mort	First Name: Kenneth	M.I. E.
Sex: M Race: W.	Rank: deputy sheriff	Unit Assignment: Industry Station	Work Assignment (Unit #, Module, etc.): 144F3
ShiftTime (*circle only one*): **EM** PM Day	ShiftType (*circle only one*): **Regular** Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, **Uniform w/ Vest**	Other Factors:
Age: [redacted]	Height: 5-11 Weight: 195		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E 3

Employee # [redacted]	Last Name: Angulo	First Name: Anselmo	M.I. R.
Sex: M Race: H	Rank: deputy sheriff	Unit Assignment: Industry Station	Work Assignment (Unit #, Module, etc.): 134K8
ShiftTime (*circle only one*): EM **PM** Day	ShiftType (*circle only one*): Regular **Overtime** Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, **Uniform w/ Vest**	Other Factors:
Age: [redacted]	Height: 6-01 Weight: 195		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Pri[redacted] [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]

See Other Side



Officer Involved Shooting Suspect Information

URN: 004-09447-1477-013

Suspect Information

S 1

Last Name: Smith	First Name: Paul	M.I.: K.
AKA Last Name:	First Name:	M.I.:

Sex: M	Race: White	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone: [redacted]	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]	
Age: 51	D.O.B. 08/15/52	Height: 5-10 Weight: 150	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:		
Coroner Case? ☒	Coroner Case #: 2004-04447	Intoxication/Drug Usage? ☐	Substance Used: Alcohol	
Armed? ☒	Apprehended? ☒	Mental Illness? ☒	Criminal History? [redacted]	
Vehicle Make: n/a	Model:	Year:		

S __

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:

Sex:	Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:	
Age:	D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:		
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:	
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐	
Vehicle Make:	Model:	Year:		

S __

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:

Sex:	Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:	
Age:	D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:		
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:	
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐	
Vehicle Make:	Model:	Year:		

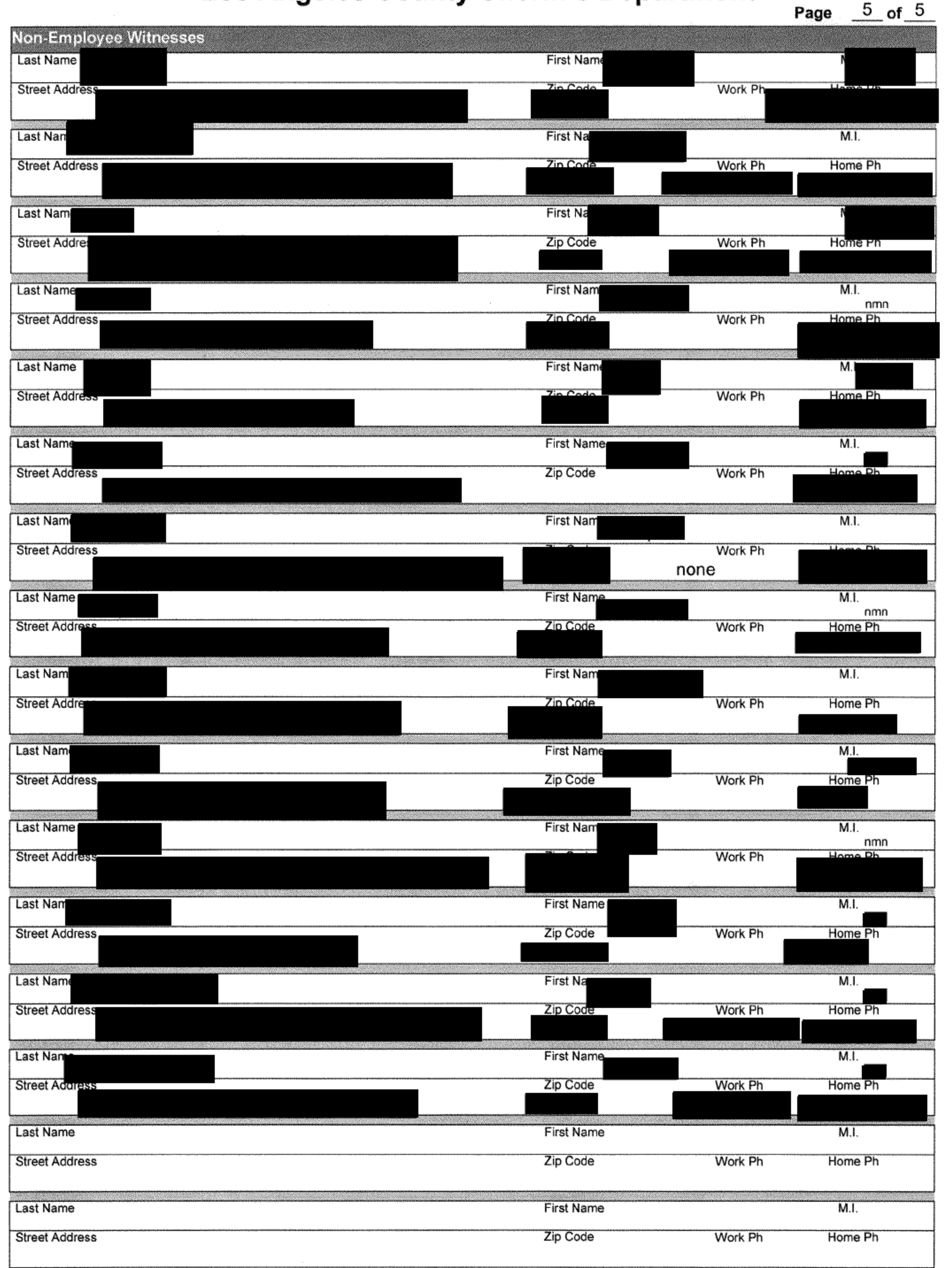
S __

Last Name:	First Name:	M.I.:
AKA Last Name:	First Name:	M.I.:

Sex:	Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:	
Age:	D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:		
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:	
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐	
Vehicle Make:	Model:	Year:		

See Other Side

SUPPLEMENTAL NON-EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department



Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	nmn	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]			[redacted]
[redacted]	[redacted]		[redacted]	[redacted]	none	[redacted]
[redacted]	[redacted]	nmn	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	nmn	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

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SH# 2121392



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
CURT LIVESAY• Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

RICHARD D. DOYLE • Director

July 29, 2005

Captain Raymond Peavy
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File No. 04-0524
L.A.S.D. File No. 004-09447-1477-013

Dear Captain Peavy:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 9, 2004, fatal shooting of Paul Smith by Los Angeles County Sheriff's Deputies [redacted], Kenneth Mort and Anselmo Angulo. We have concluded that the deputies acted lawfully in self-defense and in the defense of each other. Additionally, we have completed our review of the fatal shooting of Deputy [redacted] by Deputy Angulo. We find that the fatal wounding of Deputy [redacted] was an accidental death excused under the law.

The following analysis is based upon reports prepared by the Los Angeles County Sheriff's Department submitted to this office by Sergeant Chris Brackpool and Detective Steve Leavins on February 10, 2005. Additionally, the District Attorney Command Center was notified of the shooting at approximately 1:15 a.m. on June 10, 2004. The District Attorney Response Team, comprised of Deputy District Attorney Edward Miller and District Attorney Senior Investigator [redacted] responded to the scene. We were given a briefing of the circumstances surrounding the shooting and a "walk-through" of the scene. Compelled statements were not considered as part of this analysis.

FACTUAL ANALYSIS

On June 9, 2004, at approximately 9:56 p.m., Deputies [redacted], Anselmo Angulo, Kenneth Mort and [redacted] responded to a call reporting "shots fired" at Motel 6, located at 1154 7th Avenue in the City of Hacienda Heights. Deputy [redacted] arrived first, followed by Deputy Angulo. Angulo saw that Deputy [redacted] had contacted

a group of individuals in front of the motel office. These individuals ranged in age from sixteen to twenty. Angulo stayed back and watched the crowd. Deputies [redacted] and Mort, assigned to a two-person radio car, arrived a short time later. Mort contacted [redacted] who told him that there was someone in room 219 with a BB gun. All four deputies proceeded upstairs to room 219, led by Mort. Mort was followed in order by [redacted], Angulo, and [redacted] The deputies believed the situation to be nothing more than juvenile conduct, and their intent, as Deputies [redacted] and Angulo phrased it, was to tell the suspect to "knock it off."

The Motel 6 is a U-shaped complex, in which the open end of the "U" faces north. There is a parking lot inside of the "U." The motel office where the deputies contacted the civilians is located at the end of the northeast portion of the "U." Room 219 is a second floor room that faces toward the parking lot and is near the center of the bottom of the "U." Outside the room is a balcony-walkway bordered by a wrought-iron railing. The deputies approached the room from the west.

When the deputies reached room 220, located one room west of the suspect's room, Deputy Mort saw a couple inside and asked if they had heard any gunshots. The couple responded that they had not and the deputies proceeded on.

Deputy Mort knocked on the door of room 219 and announced, "Sheriff's Department, open the door. Sheriff's Department." Mort was against the wall of the room's exterior and Deputy [redacted] was to his left by the railing. Deputy Angulo was positioned between Mort and [redacted] approximately two feet behind them. Deputy [redacted] stood behind Angulo. Three to five seconds after Mort knocked, Paul Smith opened the door holding a BB gun and began firing at the deputies.

In response, Deputies [redacted], Mort and Angulo fired rounds at Smith. Smith sustained multiple gunshot wounds and fell to the ground. During the incident, Deputy [redacted] sustained a mortal gunshot wound to the left side of the back of his neck. [redacted] was wounded by a round fired by Angulo.

Deputy Mort told investigators that Smith was pointing his gun directly at Deputy [redacted] Mort fired because he believed Smith was going to kill [redacted]. To Mort, Smith's BB gun looked like a 9mm handgun when he saw him holding it. Mort fired a total of four rounds.

According to Deputy Angulo, he saw a black handgun come out from the door when it opened. Angulo thought it was a real semi-automatic handgun and thought Smith was going to shoot the deputies. As Angulo put it, "I was scared. I thought he was going to kill us." Angulo raised his gun, then heard two to three shots. As Angulo described it, Smith's gun "kinda popped" and "sounded like maybe a .22" or a similar kind of firearm. Angulo responded by firing what he recalled was more than one round at Smith. As he did so, he felt a sting in his leg and believed he had been shot. After Angulo fired these initial rounds, he saw Deputy [redacted] fall to the ground. As [redacted] fell, Angulo saw Smith "almost in a crouch position" still pointing his gun at the four deputies. It

appeared as if Smith was going to shoot again. Angulo stepped past [redacted] and fired what he believed were two to three more rounds at Smith. Angulo saw the gun fall from Smith's hand as he fell forward. Angulo then went back to attend to [redacted]. An examination of Angulo's firearm showed that he fired a total of four rounds during the incident.

According to Deputy [redacted] when Smith opened the door, Smith was holding his gun and "screaming at the top of his lungs" as if he was sounding a war cry. [redacted] saw Smith pull the trigger on his gun three times as well as three puffs of smoke emitting from his gun. [redacted] heard the other deputies shoot, but his view of the situation became obscured by the deputies in front of him. [redacted] saw [redacted]'s body spin, then fall face down. [redacted] believed he heard gunfire continue after this.

Deputy [redacted] fired two rounds during the incident.

Paramedics responded and treated both Smith and Deputy [redacted]. Smith was pronounced dead at the scene at 10:33 p.m. Deputy Arruda was transported by helicopter to Los Angeles County Harbor-U.C.L.A. Medical Center. [redacted] succumbed to his wound and was pronounced dead by Dr. Ramezew on June 15, 2004.

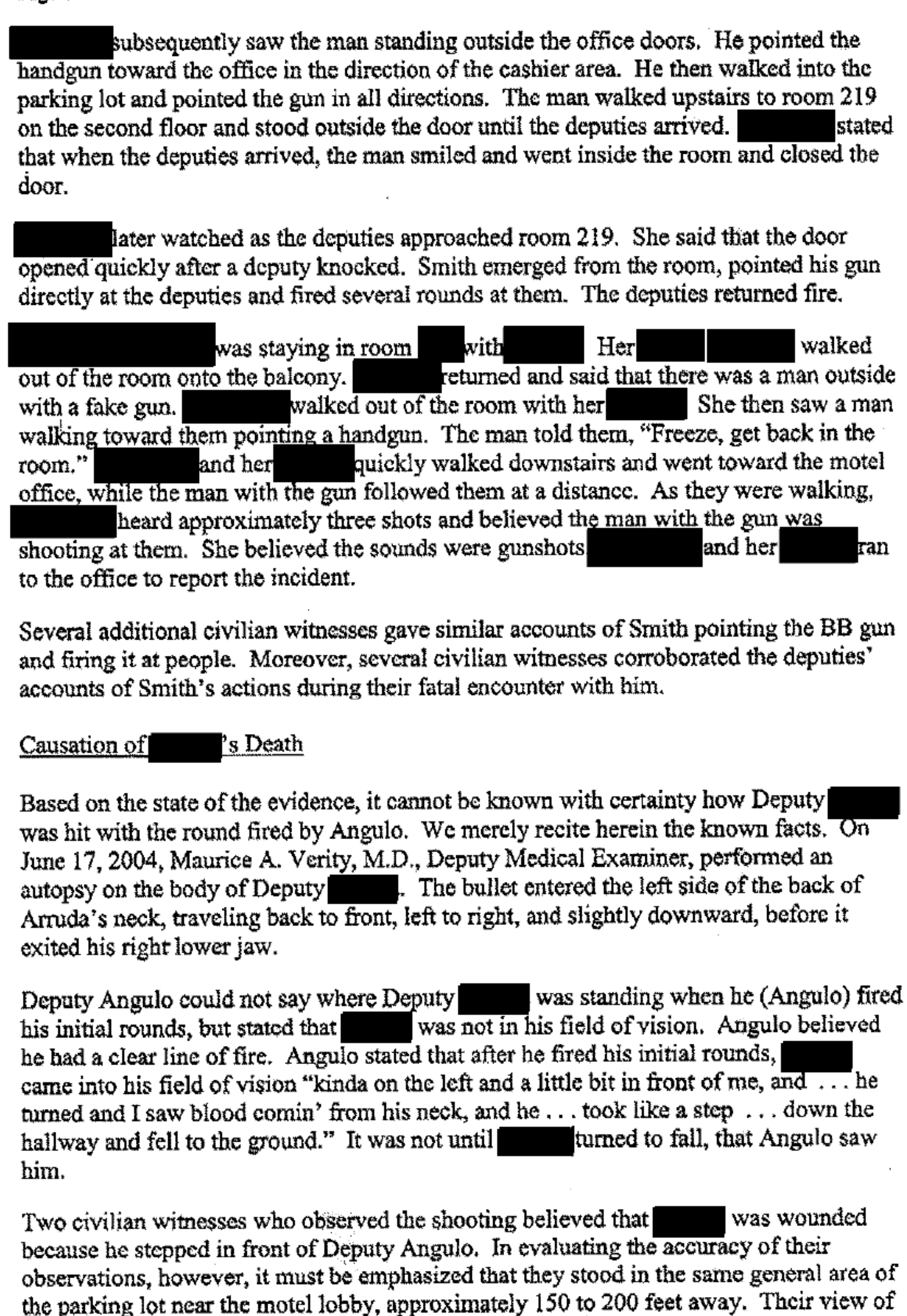
The eight-round pellet holder in Smith's BB gun was empty. Four apparently expended pellets were found in the immediate area of the shooting scene, but it cannot be determined with certainty if Smith fired all of these pellets at the deputies, since he had been observed discharging the BB gun earlier.

Toxicology analysis performed on two samples of Smith's blood indicated blood-alcohol content results of .19 and .20.

Smith had a history of mental illness. On January 27, 2003, he was taken into custody by the Sheriff's Department pursuant to Welfare and Institutions Code section 5150 at the behest of a friend who reported that Smith was depressed. Smith was emaciated and it was believed that he had not eaten for a week. He was transported to Los Angeles County—U.S.C. Medical Center. Smith was hospitalized and determined to be gravely disabled.

Statements by Civilian Witnesses

[redacted] was staying at the motel. Some time after 10:00 p.m., she was playing cards with a [redacted] named [redacted] in the motel office. [redacted] received several phone calls regarding a man with a gun shooting at the rear of the motel. [redacted] went outside to look for the person who was shooting. Several people ran toward the office saying, "They are shooting!" [redacted] looked toward the second floor and saw a man standing on the balcony holding a black handgun in a two handed shooting position. There was a white towel covering the handgun. The man fired two times in her direction and said, "Why are you guys running for? It's just a BB gun." [redacted] believed the gun was real and was afraid of being shot. She ran back to the office and told [redacted] that a man was shooting a gun. They locked the door and [redacted] called the Sheriff's Department.



[redacted] subsequently saw the man standing outside the office doors. He pointed the handgun toward the office in the direction of the cashier area. He then walked into the parking lot and pointed the gun in all directions. The man walked upstairs to room 219 on the second floor and stood outside the door until the deputies arrived. [redacted] stated that when the deputies arrived, the man smiled and went inside the room and closed the door.

[redacted] later watched as the deputies approached room 219. She said that the door opened quickly after a deputy knocked. Smith emerged from the room, pointed his gun directly at the deputies and fired several rounds at them. The deputies returned fire.

[redacted] was staying in room [redacted] with [redacted] Her [redacted] walked out of the room onto the balcony. [redacted] returned and said that there was a man outside with a fake gun. [redacted] walked out of the room with her [redacted] She then saw a man walking toward them pointing a handgun. The man told them, "Freeze, get back in the room." [redacted] and her [redacted] quickly walked downstairs and went toward the motel office, while the man with the gun followed them at a distance. As they were walking, [redacted] heard approximately three shots and believed the man with the gun was shooting at them. She believed the sounds were gunshots [redacted] and her [redacted] ran to the office to report the incident.

Several additional civilian witnesses gave similar accounts of Smith pointing the BB gun and firing it at people. Moreover, several civilian witnesses corroborated the deputies' accounts of Smith's actions during their fatal encounter with him.

Causation of [redacted]'s Death

Based on the state of the evidence, it cannot be known with certainty how Deputy [redacted] was hit with the round fired by Angulo. We merely recite herein the known facts. On June 17, 2004, Maurice A. Verity, M.D., Deputy Medical Examiner, performed an autopsy on the body of Deputy [redacted]. The bullet entered the left side of the back of Arruda's neck, traveling back to front, left to right, and slightly downward, before it exited his right lower jaw.

Deputy Angulo could not say where Deputy [redacted] was standing when he (Angulo) fired his initial rounds, but stated that [redacted] was not in his field of vision. Angulo believed he had a clear line of fire. Angulo stated that after he fired his initial rounds, [redacted] came into his field of vision "kinda on the left and a little bit in front of me, and . . . he turned and I saw blood comin' from his neck, and he . . . took like a step . . . down the hallway and fell to the ground." It was not until [redacted] turned to fall, that Angulo saw him.

Two civilian witnesses who observed the shooting believed that [redacted] was wounded because he stepped in front of Deputy Angulo. In evaluating the accuracy of their observations, however, it must be emphasized that they stood in the same general area of the parking lot near the motel lobby, approximately 150 to 200 feet away. Their view of the incident was also affected by the fact that they were looking up from the parking lot

toward the second floor. The first witness, [redacted] saw three deputies line up outside of Smith's door. When the shooting began, the middle deputy stepped forward and left toward the balcony railing. [redacted] believed the middle deputy was shot at this point by the deputy behind him.

The second such witness, [redacted] told investigators that the deputies were in a linear formation with their right sides against the building. [redacted] stated that as the shooting began, the second deputy (behind the one knocking on the door) stepped to his left as the deputy behind him (the third deputy in line) was firing.

CONCLUSION

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears that the person claiming the right of self-defense or the defense of others actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. People v. Williams, (1977) 75 Cal.App. 3d 731.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. California Jury Instructions—Criminal, 5.30, 5.32.

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo, (1948) 85 Cal. App. 2d 577.

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight . . . The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation. Graham v. Conner, (1989) 490 U.S. 386, 396-397

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins, (1961) 189 Cal. App. 2d 575.

The unintentional killing of a human being is excusable and not unlawful when (1) committed by accident and misfortune in the performance of a lawful act by lawful means and (2) where the person causing the death acted with that care and caution which would be exercised by an ordinarily careful and prudent individual under like circumstances. California Jury Instructions—Criminal, 5.00.

In this case, the deputies were justified in their use of deadly force against Paul Smith. The deputies were clearly confronted with the appearance of imminent mortal danger when Smith quickly opened the door, sounded what appeared to be a war cry, pointed what appeared to the deputies to be a real handgun and fired at them.

The fact that investigators subsequently learned that Smith was armed with a BB gun during the confrontation does not detract from our conclusion. We are satisfied that the deputies responded with deadly force because they honestly and reasonably believed they were confronted with the appearance of imminent mortal danger—the law requires no more to justify acting in self-defense and the defense of others.

Nor does the fact that the deputies believed, prior to contacting Smith, that they were responding to what appeared to be a case of juvenile behavior where the suspect was harassing people with a BB gun, alter this conclusion. The deputies did not know for certain whether the gun Smith had been seen using was a BB gun, nor did all the civilians who witnessed Smith's earlier behavior. Furthermore, Smith had gone back inside his room and could easily have armed himself with a firearm. Moreover, the quickness of Smith's assault on the officers with an apparent firearm—three to five seconds after Mort knocked on the door, is arguably the epitome of a "rapidly evolving" situation where peace officers are "forced to make split-second judgments."

Because the deputies were justified in their use of deadly force against Paul Smith and thus were acting lawfully, the accidental homicide of Deputy [redacted] was excusable and not unlawful.

We conclude that the deputies acted reasonably and lawfully in self-defense and in defense of each other when they used deadly force against Paul Smith. We further conclude that the accidental homicide of Deputy [redacted] was excusable and not unlawful. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

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